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IN THE UNITED STATES DISTRICT COURT
FOR THE DISTRICT OF DELAWARE

AMERICAN PATENT DEVELOPMENT
CORPORATION, LLC,

Plaintiff,

v.

MOVIELINK, LLC,

Defendant.

Civil Action No. 07-605-JJF

RULE 16 SCHEDULING ORDER

The parties having satisfied their obligations under Fed. R. Civ. P. 26(f),

IT IS ORDERED that:

1. **Pre-Discovery Disclosures.** The parties will exchange by January 17, 2008 the information required by Fed. R. Civ. P. 26(a)(1) and D. Del. LR 16.2.
2. **Joinder of other Parties.** All motions to join other parties shall be filed on or before March 31, 2008.
3. **Discovery.**
 - (a) Exchange and completion of contention interrogatories, identification of fact witnesses and document production shall be commenced so as to be completed by May 30, 2008.
 - (b) Maximum of 25 interrogatories, including contention interrogatories, for each side.
 - (c) Maximum of 35 requests for admission by each side.

(d) Each party is limited to a total of 40 hours of deposition testimony, excluding expert depositions. Depositions of individuals taken pursuant to Fed. R. Civ. P. 30(b)(1) are limited to seven hours. Depositions taken pursuant to Fed. R. Civ. P. 30(b)(6) may exceed seven hours, but each party is limited to a total of 14 hours of deposition testimony to be taken pursuant to Fed. R. Civ. P. 30(b)(6). Depositions shall not commence until the discovery required by Paragraph 3(a, b and c) is completed. Depositions shall be completed by July 31, 2008.

(e) Reports from retained experts required by Fed. R. Civ. P. 26(a)(2) are due from the party having the burden of proof by October 15, 2008; opposition reports are due by November 14, 2008.

(f) Any party desiring to depose an expert witness shall notice and complete said deposition no later than thirty (30) days from receipt of said expert's report, unless otherwise agreed in writing by the parties or ordered by the Court.

(g) A party shall not refuse to permit or provide discovery on the ground that the Court has not yet made a final ruling on claim construction.

(h) Experts shall be permitted to supplement their expert reports based on the Court's claim construction if done within 21 days of the Court's final ruling on claim construction. Experts who supplement their reports must be made available for deposition within 14 days after their supplemental reports, and such deposition shall be limited to topics directly related to any material that was revised or added in the supplemental report.

4. Non-Case Dispositive Motions.

(a) Any non-case dispositive motion, along with an Opening Brief, shall be filed with a Notice of Motion. The Notice of Motion shall indicate the date on which the movant

seeks to have the motion heard. The date selected shall be within 30 days of the filing of the motion and allow for briefing in accordance with the Federal and Local Rules. Available motion dates will be posted on the Court's website at www.ded.uscourts.gov.

(b) At the motion hearing, each side will be allocated twenty (20) minutes to argue and respond to questions from the Court.

(c) Upon filing of the Notice of Motion, a copy of said Notice shall be sent to Chambers by e-mail at: jjf_civil@ded.uscourts.gov.

5. **Amendment of the Pleadings.** All motions to amend the pleadings shall be filed on or before June 30, 2008.

6. **Case Dispositive Motions.** Any case dispositive motions, pursuant to the Federal Rules of Civil Procedure, shall be served and filed with an opening brief on or before January 15, 2009. Briefing shall be pursuant to D. Del. LR 7.1.2. No case dispositive motion may be filed more than ten (10) days from the above date without leave of the Court. The Court will issue a separate Order regarding procedures for filing summary judgment motions.

7. **Markman.** A Markman Hearing will be scheduled at request of parties. Briefing on the claim construction issues shall be completed at least ten (10) business days prior to the hearing. The Court, after reviewing the briefing, will allocate time to the parties for the hearing. The parties have further agreed to the following:

(a) On or before July 16, 2008, the parties shall meet and confer to attempt to determine to the greatest extent possible the claim terms which will need to be construed by the Court, and to determine the extent of any disagreement on the meaning of claim terms.

(b) On or before August 13, 2008, the parties shall file and serve their opening claim construction briefs.

(c) On or before September 10, 2008, the parties shall file and serve their responsive briefs on claim construction.

8. Application by Motion.

(a) Any publications to the Court shall be by written motion filed with the Clerk of the Court in compliance with the Federal Rules of Civil Procedure and the Local Rules of Civil Practice for the United States District Court for the District of Delaware (Amended Effective January 1, 1995). Any non-dispositive motion shall contain the statement required by D. Del. LR 7.1.1 and be made in accordance with the Court's December 15, 2006 Order on Procedures for Filing Non-dispositive motions in Patent cases. Parties may file stipulated and unopposed Orders with the Clerk of the Court for the Court's review and signing. The Court will not consider applications and requests submitted by letter or in a form other than a motion.

(b) No facsimile transmissions will be accepted.

(c) No telephone calls shall be made to Chambers.

(d) Any party with a true emergency matter requiring the assistance of the Court shall e-mail Chambers at: jjf_civil@ded.uscourts.gov. The e-mail shall provide a short statement describing the emergency.

9. Pretrial Conference and Trial. After reviewing the parties' Proposed Scheduling Order, the Court will schedule a Pretrial Conference.

The Court will determine whether the trial date should be scheduled when the Scheduling Order is entered or at the Pretrial Conference. If scheduling of the trial date is deferred until the Pretrial conference, the parties and counsel shall anticipate and prepare for a trial to be held within sixty (60) to ninety (90) days of the Pretrial Conference.

1-11-08
Date

Joseph J. Farnan
Joseph J. Farnan, United States District Judge